

REMARKS

The paragraph entitled "Cross-Reference to Related Applications" has been replaced. The new paragraph has been drafted to incorporate the language suggested by the Examiner.

All pending claims have been canceled and new claims 32-44 have been submitted.

New claims 32 and 34 track canceled claim 14; however, claim 34 is drawn to a protein *consisting* of a nucleic acid sequence encoding the recited SEQ ID NO's.

New claims 33 and 37 substantially track canceled claim 12. However, SEQ ID NO's 2, 5, 8, 10 and 13 have been added to claims 33 and 37. Support for the language of these claims can be found in the specification, for example, on page 27, lines 15-21.

Claims 35 and 38 are drawn to fragments of at least 35 nucleotides from nucleic acid molecules consisting of the disclosed SEQ ID NO's. Similarly, claims 36 and 39 are drawn to fragments of at least 45 nucleotides from nucleic acid molecules consisting of the disclosed SEQ ID NO's. Support for these claims can be found in the specification, for example, on page 30, lines 5-19.

Claims 40 and 41 track canceled claim 20.

Claims 42 and 43 are drawn to fragments of at least 35 and 45 amino acids, respectively, from a protein consisting of the disclosed SEQ ID NO's. Support for such fragments can be found in the specification, for example, on page 20, lines 6-16.

Claim 44 substantially tracks claim 15.

Accordingly, Applicants submit that no new matter has been entered into the Application.

I. Objection to the Specification

The Examiner has objected to the specification stating that an improper claim of priority under 35 U.S.C. §371 was made in the priority paragraph. Applicants note that the priority paragraph has been replaced. The language in the newly submitted paragraph incorporates the language suggested by the Examiner.

II. Oath/Declaration

The Examiner has objected to the oath/declaration. Specifically, the Examiner has stated the declaration is defective since it contains non-dated alterations. Applicants are submitting with this response a new declaration that has been newly signed by the inventor.

III. Claim Objections

The Examiner has objected to claims 12 and 14 under 37 CFR 1.75(c) as being in improper form since these claims are multiple dependent claims and use the term “and” instead of “or”. Applicants note that claims 12 and 14 have been canceled.

IV. Rejections Under 35 U.S.C. 112, first paragraph – enablement

The Examiner has rejected claims 2, 4, 6, 12, 14, 15, 19-24 and 26-31 for lack of enablement. Specifically, the Examiner states that while the specification enables isolated nucleic acid molecules encoding a protein comprising SEQ ID NO:12, isolated proteins comprising SEQ ID NO:12 and methods using a protein comprising SEQ ID NO:12, it does not enable variants of SEQ ID NO:12 or method using such variants.

While Applicants disagree with the Examiner’s position, in the interest of expediting prosecution claims 2, 4, 6, 12, 14, 15, 19-24 and 26-31 have been canceled and new claims submitted. The newly submitted claims only recite the disclosed SEQ ID NO’s, and fragments thereof, and do not claim or refer to variants of the disclosed SEQ ID NO’s. Applicants believe the newly submitted claims render the rejection under 35 U.S.C. §112 first paragraph moot.

V. Rejections Under 35 U.S.C. §112, first paragraph – written description

The Examiner has rejected claims 2, 4, 6, 12, 14, 15, 19-24 and 26-31 for lack of written description. Specifically the Examiner states that while the specification clearly shows possession of SEQ ID NO:12, and its encoding nucleic acid molecule, it does not describe or teach any other peptide that differs in sequence from the sequence of SEQ ID NO:12.

While Applicants disagree with the Examiner’s position, in the interest of expediting prosecution claims 2, 4, 6, 12, 14, 15, 19-24 and 26-31 have been canceled and new claims

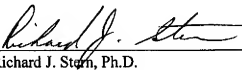
submitted. The newly submitted claims only recite the disclosed SEQ ID NO's, and fragments thereof, and do not claim or refer to variants of the disclosed SEQ ID NO's. Applicants believe that the language of the newly submitted claims obviates the rejection for lack of written description.

CONCLUSION

The current claims are believed to be in condition for allowance and Applicant solicits such from the Examiner. The Examiner is invited to contact the undersigned should any issues remain.

Respectfully submitted,

Dated: October 5, 2007

A handwritten signature in cursive script, appearing to read "Richard J. Stern", is written over a horizontal line.

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